

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**GARRY ROSS,**

**Plaintiff,**

**V.**

**NORTHSIDE HOSPITAL, INC.,**

**Defendant.**

**CIVIL ACTION FILE NO.**

**JURY TRIAL DEMANDED**

**COMPLAINT**

COMES NOW Plaintiff, Garry Ross (“Plaintiff” or “Mr. Ross”), by and through undersigned counsel, The Kirby G. Smith Law Firm, LLC, and hereby files this Complaint against the Defendant Northside Hospital, Inc. (“Defendant” or “Northside”), stating as follows:

**I. PARTIES**

1. Plaintiff is a citizen of the United States and a resident of Fayette County, Georgia.
2. Defendant is a corporation registered to conduct business in the State of Georgia.
3. Defendant may be served through its registered agent, Ms. Susan Sommers,

located at 980 Johnson Ferry Road, Suite 70, Atlanta, GA 30342.

## **II. JURISDICTION AND VENUE**

4. This Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331 over Count I of this Complaint, which arises out of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (“FLSA”).

5. This Court has jurisdiction over the parties of this action because a substantial portion of the employment practices described herein took place in Fulton County, Georgia.

6. Venue is proper in this Court pursuant to 28 U.S.C. § 1391.

7. Plaintiff was an employee of Defendant under FLSA.

8. Defendant’s employees, including Plaintiff, routinely handled or otherwise worked on goods or materials that had been moved in interstate commerce.

9. Defendant’s enterprise has an annual gross volume of sales of at least \$500,000.

10. Defendant is subject to the requirements of the FLSA.

## **III. FACTUAL ALLEGATIONS**

11. Plaintiff worked for Defendant as a Security Officer I.

12. As a Security Officer I, Plaintiff was responsible for patrolling the hospital premises for the Defendant.

13. Defendant would issue Plaintiff areas to patrol.
14. Defendant issued Plaintiff a communications device so that management could monitor and control Plaintiff's daily activities.
15. Defendant controlled Plaintiff's breaks.
16. If he got a W2: Plaintiff was paid as an employee via W2 tax reporting.
17. Plaintiff began working for Defendant in 2017.
18. A thirty minute lunch break was allocated for the Plaintiff every work day.
19. Plaintiff would work through his lunch break daily.
20. By working through his lunch break, Plaintiff worked 8.5 hours daily.
21. From 2017 until early-April 2021, Plaintiff worked approximately 42.5 hours per week for Defendant.
22. Plaintiff's checks reflected 40 hours per week, not the 42.5 hours per week Plaintiff actually worked.

#### **IV. CLAIM FOR RELIEF**

##### **COUNT I**

##### **FLSA: UNPAID OVERTIME**

21. Plaintiff incorporates by reference paragraphs 1-22 of his Complaint as if fully set forth herein.
22. Defendant is subject to FLSA coverage as an enterprise engaged in interstate

commerce with annual gross volume of sales not less than \$500,000.

23. Plaintiff was an employee of Defendant.

24. Plaintiff was not paid for any time worked beyond 40 hours per week.

25. Plaintiff is entitled to one and one-half times his regular rate for each hour of overtime worked.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays that this Honorable Court grant the following relief:

- a. Trial by jury;
- b. A finding that Defendant violated Plaintiff's rights as set forth herein;
- c. All unpaid wages including overtime plus interest, reasonable attorney fees, and costs in accordance with the FLSA; and
- d. Any other relief this Court deems proper and just.

Respectfully submitted this 18th day of June, 2021.

THE KIRBY G. SMITH LAW FIRM, LLC

s/Terrence D.W. John  
Terrence D.W. John  
Georgia Bar No. 894778  
Kirby G. Smith  
Georgia Bar No. 250119  
*Attorneys for Plaintiff*

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**JURY DEMAND**

Plaintiff requests a jury trial on all questions of fact raised by this Complaint.

Respectfully submitted this 18th day of June, 2021.

THE KIRBY G. SMITH LAW FIRM, LLC

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*Attorneys for Plaintiff*

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**FONT AND POINT CERTIFICATION**

The Undersigned counsel for Plaintiff certifies that the within and foregoing COMPLAINT was prepared using Times New Roman, 14-point font in accordance with LR 5.1(B).

Respectfully submitted this 18th of June, 2021.

THE KIRBY G. SMITH LAW FIRM, LLC

s/Terrence D.W. John  
Terrence D.W. John  
Georgia Bar No. 894778  
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